

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

22
OPEN MEETING ITEM.



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EXECUTIVE SECRETARY

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AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: JULY 9, 2001
DOCKET NO: T-03990A-01-0117
TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Stephen Gibelli.
The recommendation has been filed in the form of an Order on:

LOCAL TELCOM HOLDINGS, LLC
dba TRANSPORT COMMUNICATIONS
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

JULY 18, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

JULY 24, 2001 AND JULY 25, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission
DOCKETED

JUL 09 2001

DOCKETED BY	<i>sd</i>
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[Signature]
BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 MARC SPITZER
COMMISSIONER

5
6 IN THE MATTER OF THE APPLICATION OF
LOCAL TELCOM HOLDINGS, LLC D/B/A
7 TRANSPPOINT COMMUNICATIONS FOR A
CERTIFICATE OF CONVENIENCE AND
8 NECESSITY TO PROVIDE COMPETITIVE
RESOLD INTEREXCHANGE
9 TELECOMMUNICATIONS SERVICES, EXCEPT
LOCAL EXCHANGE SERVICES

DOCKET NO. T-03990A-01-0117

DECISION NO. _____

ORDER

10 Open Meeting
11 July 24 and 25, 2001
Phoenix, Arizona

12 **BY THE COMMISSION:**

13 Having considered the entire record herein and being fully advised in the premises, the
14 Commission finds, concludes, and orders that:

15 **FINDINGS OF FACT**

16 1. On February 8, 2001, Local Telcom Holdings, LLC d/b/a Transpoint Communications
17 ("Applicant" or "LTH") filed with the Commission an application for a Certificate of Convenience
18 and Necessity ("Certificate") to provide competitive resold interexchange telecommunications
19 services within the State of Arizona.

20 2. In Decision No. 58926 (December 22, 1994), the Commission found that resold
21 telecommunications providers ("resellers") were public service corporations subject to the
22 jurisdiction of the Commission.

23 3. Applicant is a Delaware corporation, authorized to do business in Arizona since 2000.

24 4. Applicant is a switchless reseller, which purchases telecommunications services from
25 a variety of carriers.

26 5. On March 2, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff
27 Report in this matter. In its Staff Report, Staff stated that Local Telcom Holdings, LLC d/b/a
28

1 Transpoint Communications provided financial statements for the year ended December 31, 1999.
2 These financial statements list assets of \$1.7 million, total equity of \$56,993, and a net loss of \$2.7
3 million. Based on the foregoing, Staff believes that Applicant lacks adequate financial resources to
4 be allowed to charge customers any prepayments, advances, or deposits without either establishing an
5 escrow account or posting a surety bond to cover such customer prepayments, advances, or deposits.
6 The Applicant said in its application that it does not currently, and will not in the future, charge its
7 customers for any prepayments, advances, or deposits. If at some future date, the Applicant wants to
8 charge its customers any prepayments, advances or deposits, it must file information with the
9 Commission that demonstrates the Applicant's financial viability. Upon receipt of such filing, Staff
10 will review the information and the Commission will make a determination concerning the
11 Applicant's financial viability and whether customers prepayments, advances, or deposits should be
12 allowed.

13 6. Staff recommended approval of the application subject to the following conditions,
14 that:

15 (a) The Applicant shall comply with all Commission rules, orders, and other
16 requirements relevant to the provision of intrastate telecommunications service;

17 (b) The Applicant shall maintain its accounts and records as required by the
18 Commission;

19 (c) The Applicant shall file with the Commission all financial and other reports
20 that the Commission may require, and in a form and at such times as the Commission
may designate;

21 (d) The Applicant shall maintain on file with the Commission all current tariffs
22 and rates, and any service standards that the Commission may require;

23 (e) The Applicant shall comply with the Commission's rules and modify its tariffs
24 to conform to these rules if it is determined that there is a conflict between the
Applicant's tariffs and the Commission's rules;

25 (f) The Applicant shall cooperate with Commission investigations of customers
26 complaints;

27 (g) The Applicant shall participate in and contribute to a universal service fund, as
28 required by the Commission;

1 (h) The Applicant shall notify the Commission immediately upon changes to the
2 Applicant's address or telephone number;

3 (i) The Applicant's intrastate interexchange service offerings should be classified
4 as competitive pursuant to A.A.C. R14-2-1108;

5 (j) The rates proposed by the Applicant in its most recently filed tariffs should be
6 approved on an interim basis. The maximum rates for these services should be the
7 maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates
8 for the Applicant's competitive services should be the Applicant's total service long
9 run incremental costs of providing those services; and

10 (k) In the event that the Applicant states only one rate in its proposed tariff for a
11 competitive service, the rate stated should be the effective (actual) price to be charged
12 for the service as well as the service's maximum rate.

13 7. Staff also recommended approval of Local Telcom Holdings, LLC d/b/a Transpoint
14 Communications's application subject to the following conditions:

15 (a) That the Applicant file conforming tariffs within 30 days of an Order in this
16 matter, and in accordance with the Decision;

17 (b) That the Applicant file in this Docket, within 18 months of the date it first
18 provides service following certification, sufficient information for Staff
19 analysis and recommendation for a fair value finding, as well as for an analysis
20 and recommendation for permanent tariff approval. This information must
21 include, at a minimum, the following:

22 1. A dollar amount representing the total revenue for the first twelve months
23 of telecommunications service provided to Arizona customers by Local
24 Telcom Holdings, LLC d/b/a Transpoint Communications following
25 certification, adjusted to reflect the maximum rates that the Applicant has
26 requested in its tariff. This adjusted total revenue figure could be
27 calculated as the number of units sold for all services offered times the
28 maximum charge per unit.

2. The total actual operating expenses for the first twelve months of
telecommunications service provided to Arizona customers by the
Applicant following certification.

3. The value of all assets, listed by major category, including a description of
the assets, used for the first twelve months of telecommunications services
provided to Arizona customers by the Applicant following certification.
Assets are not limited to plant and equipment. Items such as office
equipment and office supplies should be included in this list.

(c) Local Telcom Holdings, LLC d/b/a Transpoint Communications's failure to
meet the condition to timely file sufficient information for a fair value finding

and analysis and recommendation of permanent tariffs shall result in the expiration of the Certificate of Convenience and Necessity and of the tariffs.

8. The Staff Report also stated that Applicant has no market power and the reasonableness of its rates would be evaluated in a market with numerous competitors.

9. On March 19, 2001, a Procedural Order was issued requiring exceptions to the Staff Report or a request that a hearing be set, to be filed by June 29, 2001. No exceptions were filed to the Staff Report, nor did any party request that a hearing be set.

10. On April 25, 2001, LTH filed Affidavits of Publication indicating compliance with the Commission's notice requirements.

11. On August 29, 2000, the Arizona Court issued its Opinion in US WEST Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding that "the Arizona Constitution requires the Commission to determine fair value rate bases for all public service corporations in Arizona prior to setting their rates and charges."

12. On October 26, 2000, the Commission filed a Petition for Review to the Supreme Court.

13. On February 13, 2001, the Commission's Petition was granted.

CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the application.

3. Notice of the application was given in accordance with the law.

4. Applicant's provision of resold interexchange telecommunications services is in the public interest.

5. Applicant is a fit and proper entity to receive a Certificate for providing competitive resold interexchange telecommunications services in Arizona.

6. Staff's recommendations in Findings of Fact No. 6 and 7 are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the application of Local Telcom Holdings, LLC d/b/a Transpoint Communications for a Certificate of Convenience and Necessity for authority to provide competitive resold interexchange telecommunications services, except local exchange services, is hereby granted, except that Local Telcom Holdings, LLC d/b/a Transpoint Communications shall not be authorized to charge customers any prepayments, advances, or deposits. In the future, if Local Telcom Holdings, LLC d/b/a Transpoint Communications desires to initiate such charges, it must file information with the Commission that demonstrates the Applicant's financial viability. Staff shall review the information provided and file its recommendation concerning financial viability and/or the necessity of obtaining a surety bond within thirty (30) days of receipt of the financial information, for Commission approval.

IT IS FURTHER ORDERED that Local Telcom Holdings, LLC d/b/a Transpoint Communications shall comply with Staff's recommendations as set forth in Findings of Fact Nos. 6 and 7.

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IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision, Local Telcom Holdings, LLC d/b/a Transpoint Communications shall notify the Compliance Section of the Arizona Corporation Commission of the date that it will begin or has begun providing service to Arizona customers.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2001.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT
SG:dp

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2 SERVICE LIST FOR:

LOCAL TELCOM HOLDINGS, LLC D/B/A
TRANSPPOINT COMMUNICATIONS

3 DOCKET NO.:

T-03990A-01-0117

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